



North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

March 4, 2015

J. David Granberry  
Mecklenburg County Register of Deeds  
720 East Fourth Street  
Charlotte, NC 282002

Subject: Amendment to Notice of Brownfields Property  
Former R. H. Bouligny Site  
2320 North Davidson Street  
Charlotte, Mecklenburg County  
Brownfields Project No 07005-03-060

Dear Ms. Granberry:

I write you in my capacity as a delegate of powers granted under the Brownfields Property Reuse Act (the Act), N.C.G.S. 130A-310.30, *et seq.* to the Secretary of the N.C. Department of Environment and Natural Resources (DENR).

On December 20, 2004, Noda Properties, LLC, filed for recordation at your office of a Notice of Brownfields Property (Notice) in connection with a Brownfields Agreement it had entered into with the North Carolina Department of Environment and Natural Resources (DENR) regarding the above-referenced parcels. These actions were taken pursuant to the Brownfields Property Reuse Act (the Act), N.C.G.S. 130A-310.30, *et seq.* The document shows NoDa Properties, LLC. as owner of the subject property and was recorded in **Book 18141, Pages 585-614** (with the associated plat recorded in **Plat Book 42, Page 829**).

N.C.G.S. 130A-310.35(e) allows the Secretary of DENR to cancel a Notice if the landowner requests cancellation and the hazards that resulted in the Notice's recordation have been eliminated. I have been delegated the powers granted to the Secretary under the Act. Based on site assessment, site demolition, other information, requests from the current property owner, and a meeting on November 5, 2014, I am hereby **cancelling the Notice's Land Use Restriction Numbers 5, 8, and 10. Furthermore, the following Land Use Restrictions are revised as rewritten below:**

Land Use Restriction 9 is revised to read:

9. The Brownfields Property may not be used as a playground, or for child care centers or schools, without the approval of DENR or its successor in function.

Land Use Restriction 11 is revised to read:

11. As to all new construction and conversion of existing structures to residential, ~~each occupied space on the Brownfields Property shall be mechanically ventilated with outdoor air in conformance with the most current version of Standard 62 of the American Society of Heating, Refrigerating and Air-Conditioning Engineers or in accordance with U.S. EPA guidance on radon-resistant construction techniques for new residential construction.~~ defined as those depicted on the plat component of the Notice, they may not be occupied until:

i. the building would be sufficiently distant from the Property's groundwater and/or soil contamination that the building's users, public health and the environment will be protected from risk from vapor intrusion related to said contamination; or

ii. vapor mitigation measures are installed or implemented to the satisfaction of a professional engineer licensed in North Carolina, as evidenced by said engineer's professional seal on a report that includes photographs and a description of the installation and performance of said measures. All vapor mitigation measures shall be installed or implemented in accordance with a plan approved in writing by DENR in advance, including methodology(ies) for demonstrating performance of said measures.

Land Use Restriction 13 is revised to read:

13. During January of each year after this Agreement becomes effective, the then current owner of any part of the Brownfields Property shall submit a notarized Land Use Restrictions Update to DENR or its successor in function, and to the chief public health and environmental officials of Mecklenburg County, certifying that this Notice remains recorded at the Mecklenburg County Register of Deeds office, and that the land use restrictions on the Brownfields Property are being complied with and stating to the best of its actual knowledge. ~~In addition, no later than fourteen (14) days after every fifth anniversary of the effective date of this Agreement, the then current owner of any part of the Brownfields Property shall submit a survey of well receptors within 1,500 feet of the Brownfields Property to DENR or its successor in function. If the Brownfields Property comprises more than one parcel at any time when said survey is due, and the parcels have different owners, one owner may submit the survey for the other(s).~~

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i. the name, mailing address, telephone and facsimile numbers, and contact person's e-mail address of the owner submitting the LURU if said owner acquired any part of the Property during the previous calendar year; and

ii. the transferee's name, mailing address, telephone and facsimile numbers, and contact person's e-mail address, if said owner transferred any part of the Property during the previous calendar year.

iii. whether any vapor barrier and/or mitigation systems installed pursuant to subparagraph 11 above are performing as installed and certify they have not been modified, removed or compromised in any way, and whether the uses of the ground floors of any buildings containing such vapor barrier and/or mitigation systems have changed, and, if so, how.

In lieu of submissions of LURUs by particular owners, a property owners association or other entity may submit same on behalf of some or all owners of the Property, of said association or entity.

Pursuant to N.C.G.S. 130A-310.35(e), that is a statement that the hazard for which the requirement was imposed has been eliminated and a request that the land use restrictions be cancelled and modified as described above. As required by N.C.G.S. 130A-310.35(e), this letter contains the name of the owner of the land as shown in the Notice and references the plat book and page where the Notice is recorded.

Pursuant to N.C.G.S. 130A-310.35(e), please record this statement in the deed books and index it on the grantor index in the names of the owners of the land as shown in the Notice and on the grantee index in the name "Secretary of Environment and Natural Resources." Also pursuant to N.C.G.S. 130A-310.35(e), if practicable please make a marginal entry on the Notice showing the date of cancellation and the book and page where this statement is recorded, and sign the entry. . If you would be so kind, please return to me a copy of this statement evidencing recordation.

We appreciate your assistance in this matter. If you have questions or require additional information, please contact Carolyn Minnich at (704) 661-0330 or [carolyn.minnich@ncdenr.gov](mailto:carolyn.minnich@ncdenr.gov).

Sincerely,



Michael E. Scott, Deputy Director  
Division of Waste Management

cc: Central Files

ec: Bruce Nicholson, Brownfields Program Manager  
Carolyn Minnich, NCDENR

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NORTH CAROLINA  
WAKE COUNTY

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Michael E. Scott.

Date: March 5, 2015

Kathleen Lance  
Official Signature of Notary

Kathleen Lance  
Notary's printed or typed name, Notary Public

My commission expires: January 20, 2019

